

REMARKS

Claims 1-19 were pending in this application. By the above amendment, claims 1-19 have been canceled and replaced with new claims 20-38.

The Office Action dated February 1, 2005, has been received and carefully reviewed. In that Office Action, claims 1-3, 5-8, 10 and 15-19 were rejected under 35 U.S.C. 102(b) as being anticipated by Sakeagi and claims 4, 9 and 11-14 were rejected under 35 U.S.C. 103(a) as being unpatentable over Sakeagi in view of Bunte. Claims 1-19 have been cancelled. Differences between the new claims and the references of record are discussed below.

Claim 20 requires a portable terminal device that includes a frame rate control unit that sets a frame rate after an issuance of an instruction for starting code reading into a frame rate necessary for code recognition. The references of record do not show or suggest a frame rate control unit as now claimed. The Office Action argued in connection with the original claims that Bunte discusses different image capturing modes. However, nothing in Bunte or the other references of record suggests a frame rate control unit that renders a different frame rate before and after the issuance of an instruction for code recognition. Claim 20 is submitted to be allowable over the references of record for at least this reason.

Claims 21-30, 36 and 37 depend from claim 20 and are submitted to be allowable for the same reasons as claim 20.

Claim 23 further distinguishes over the references of record by requiring that an image capture area be changed depending on a characteristic of an imaged code. The Office Action argued in connection with the original claims that Sakeagi allows for different operating parameters and that different processing is performed on different bar codes (citing column 3,

lines 39-52). These lines also mention a “preset number of recorded pixels.” Nothing in Sakeagi, however, shows or suggests the changing of an image capture area depending on a characteristic of a code as required by claim 23.

Claim 24 further requires that the display magnification of an imaged code depend on a characteristic of an imaged code. This feature is not shown or suggested by the art of record and claim 24 is submitted to further distinguish over the art for this reason.

Claims 27 and 28 further distinguish over the art of record by requiring a notification unit that notifies the result of bar code recognition. The Office Action argued in connection with the original claims that a notification unit was “almost inherently” contained in Sakeagi. However, a rejection based on inherency requires that the claimed feature is necessarily present in the disclosed invention – inherency cannot be established by likelihoods or probabilities. *In re Oelrich*, 212 USPQ 323, 326 (CCPA 1981); MPEP 2112. Therefore, it is respectfully submitted that a notification means that is “almost inherently” disclosed is not inherently disclosed as required by law and the MPEP. Claims 27 and 28 are submitted to further distinguish over the prior art for this reason.

Claim 31 requires a portable terminal device that includes camera for imaging an object and a display unit for displaying an imaged object, wherein the camera and the display unit are housed in a main body. The portable terminal device further includes a marker indicating the position of the camera. One embodiment of such a marker can be seen in Figure 9A. The references of record do not show or suggest such a marker, and claim 31 is submitted to be allowable for at least this reason.

Claim 38 requires a computer readable recording medium recorded with a program for causing a computer to execute an imaging step for imaging an object, an imaging procedure switching step for switching between an object imaging procedure and a code imaging procedure, a displaying step for displaying an image obtained by said imaging step, and a code recognizing step for recognizing a code of an imaged object during the code imaging procedure. Such a computer readable recording medium is not shown or suggested by the references of record, and claim 38 is submitted to be allowable for at least this reason.

CONCLUSION

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Scott Wakeman (Reg. No. 37,750) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.


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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

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